

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK**

MENDEL REIZES, on behalf of himself and  
all other similarly situated consumers,

Plaintiff,

v.

CALIBER HOME LOANS, INC.,

Defendant.

18-cv-02482-MKB-RML

**ANSWER AND AFFIRMATIVE  
DEFENSES OF DEFENDANT CALIBER  
HOME LOANS, INC. TO PLAINTIFF'S  
COMPLAINT**

Defendant Caliber Home Loans, Inc. ("Defendant"), by and through its attorneys Mayer Brown LLP, hereby answers the allegations set forth in the Complaint by Plaintiff Mendel Reizes ("Plaintiff") as follows:

To avoid any doubt, Defendant states that it denies all allegations in the Complaint to the extent that the allegations assert or suggest, individually or collectively, that: (1) any actions by Defendant were deceptive or misleading; or (ii) Defendant engaged in any actionable conduct or is otherwise liable to Plaintiff. Defendant in all events intends to respond only to allegations directed towards Defendant, such that none of the responses should be deemed to be responding to allegations that involve other parties. Except as otherwise indicated, the responses herein in respect of Defendant are made on personal knowledge with respect to certain factual allegations specifically relating to Defendant, and on information and belief with respect to all other allegations. Defendant also states that no response is necessary to any averments in the headings, subheadings, footnotes, legal conclusions, prayer for relief, and Exhibits of the Complaint. To the extent any response is necessary, Defendant denies all allegations contained

in the headings, subheadings, footnotes, prayer for relief, and Exhibits of the Complaint unless otherwise noted.

### **INTRODUCTION**

1. Paragraph 1 purports to characterize the lawsuit and legal conclusions to which no response is required. To the extent a response is required, Defendant denies each and every allegation contained in Paragraph 1.

### **PARTIES**

2. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 2.

3. Paragraph 3 contains conclusions of law to which no response is required. To the extent a response is required, Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 3.

4. Defendant admits that it has a business location in Irving, Texas.

5. Paragraph 5 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 5.

6. Paragraph 6 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 6.

### **JURISDICTION AND VENUE**

7. Paragraph 7 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 7.

8. Paragraph 8 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 8.

**BACKGROUND FACTS**

9. Paragraph 9 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 9 pertain to Defendant.

10. Paragraph 10 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 10 pertain to Defendant.

11. Paragraph 11 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 11 pertain to Defendant.

12. Paragraph 12 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 12 pertain to Defendant.

13. Paragraph 13 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 13 pertain to Defendant.

14. Paragraph 14 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 14 pertain to Defendant.

15. Paragraph 15 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 15 pertain to Defendant.

16. Paragraph 16 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 16 pertain to Defendant.

17. Paragraph 17 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 17 pertain to Defendant.

18. Paragraph 18 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations to the extent those allegations contained in Paragraph 18 pertain to Defendant.

**ALLEGATIONS PARTICULAR TO MENDEL REIZES**

19. Defendant admits that it currently is the servicer for the LSF9 Master Participation Trust, which holds a mortgage loan in which Plaintiff is the borrower. Defendant otherwise denies the remaining allegations contained in Paragraph 19.

20. Defendant denies the allegations contained in Paragraph 20.

21. Defendant denies the allegations contained in Paragraph 21.

22. Defendant denies the allegations contained in Paragraph 22.

23. Defendant denies the allegations contained in Paragraph 23.

24. On information and belief, Defendant admits that Plaintiff's loan was in default prior to the loan being assigned to the LSF9 Master Participation Trust.

25. Paragraph 25 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 25.

26. Paragraph 26 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 26.

27. Defendant admits that the obligee of Plaintiff's mortgage loan currently is U.S. Bank, N.A., as trustee for LSF9 Master Participation Trust. Defendant denies the remaining allegations contained in Paragraph 27.

28. Defendant refers to the document described in Paragraph 28, and all other documents cited in Exhibit C to the Complaint, for a true and complete record of their contents, and denies all allegations contrary thereto. To the extent Paragraph 28 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 28, and therefore denies the allegations.

29. Defendant refers to the court docket of the action described in Paragraph 29 for a true and accurate record of its disposition.

30. Defendant denies the allegations contained in Paragraph 30.

31. Paragraph 31 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 31.

32. Paragraph 32 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 32.

33. Paragraph 33 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 33.

34. Paragraph 34 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 34.

35. The capitalized term “Creditor” is not defined by Plaintiff, and Defendant therefore lacks knowledge or information sufficient to form a belief as to the truth of allegations referencing that term. Defendant otherwise denies all allegations contained in Paragraph 35.

36. Defendant refers to the document described in Paragraph 36, which speaks for itself, for a true and accurate record of its contents, and denies all allegations contrary thereto.

37. Defendant denies the allegations contained in Paragraph 37.

38. Defendant denies the allegations contained in Paragraph 38.

39. Defendant refers to the document described in Paragraph 39, which speaks for itself, for a true and accurate record of its contents, and denies all allegations contrary thereto. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 39.

40. Paragraph 40 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 40.

41. Defendant refers to the document described in Paragraph 41, which speaks for itself, for a true and accurate record of its contents, and denies all allegations contrary thereto. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 41.

42. Defendant refers to the court docket of the action described in Paragraph 42 for a true and accurate record of its disposition.

43. Paragraph 43 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 43.

44. Paragraph 44 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 44.

45. Paragraph 45 states conclusions of law as to which no response is required. Defendant refers to the statute cited in Paragraph 45 for its true and complete language, and denies all allegations contrary thereto.

46. Defendant denies the allegations contained in Paragraph 46.

47. Defendant denies the allegations contained in Paragraph 47.

48. Defendant denies the allegations contained in Paragraph 48.

49. On information and belief, Defendant admits that Seterus Inc. was a previous servicer of Plaintiff's mortgage loan. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 49.

50. Defendant denies the allegations contained in Paragraph 50.

51. Defendant denies the allegations contained in Paragraph 51.

52. Defendant denies the allegations contained in Paragraph 52.

53. Paragraph 53 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 53.

54. Defendant denies the allegations contained in Paragraph 54.

55. To the extent Paragraph 55 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents, and therefore denies the allegations contained in Paragraph 55.

56. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 56.

57. Paragraph 57 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 57.

58. Defendant denies the allegations contained in Paragraph 58.

59. Paragraph 59 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 59.

60. Paragraph 60 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 60.

61. Defendant denies the allegations contained in Paragraph 61.

62. Defendant denies the allegations contained in Paragraph 62. To the extent Paragraph 62 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

63. Defendant denies the allegations contained in Paragraph 63. To the extent Paragraph 63 purports to characterize or quote the materials cited therein, Defendant denies that



the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

64. Defendant denies the allegations contained in Paragraph 64.

65. Paragraph 65 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 65.

66. Defendant denies the allegations contained in Paragraph 66.

67. Defendant denies the allegations contained in Paragraph 67.

68. Defendant denies the allegations contained in Paragraph 68.

69. Defendant denies the allegations contained in Paragraph 69.

70. Paragraph 70 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 70.

71. Paragraph 71 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 71 and refers to the materials cited therein for their true and complete contents.

72. Paragraph 72 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 72 and refers to the materials cited therein for their true and complete contents.

73. Paragraph 73 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 73.

74. Defendant denies the allegations contained in Paragraph 74.

75. Defendant denies the allegations contained in Paragraph 75.

76. Defendant denies the allegations contained in Paragraph 76.

77. Defendant denies the allegations contained in Paragraph 77.

78. Paragraph 78 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 78.

79. Paragraph 79 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 79.

80. Defendant denies the allegations contained in Paragraph 80.

81. Defendant denies the allegations contained in Paragraph 81 and refers to the materials cited therein for their true and complete contents.

82. Defendant denies the allegations contained in Paragraph 82.

83. Defendant denies the allegations contained in Paragraph 83.

84. Defendant denies the allegations contained in Paragraph 84.

85. Defendant refers to the full source of the quote fragments cited in Paragraph 85 for a true and complete record of its contents, and denies any representation contrary thereto. To the extent that an additional response is required, Defendant denies the allegations contained in Paragraph 85.

86. Paragraph 86 states conclusions of law as to which no response is required. To the extent Paragraph 86 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents, and therefore denies the allegations contained in Paragraph 86.

87. Paragraph 87 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 87 and refers to the materials cited therein for their true and complete contents.

88. Paragraph 88 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 88 and refers to the materials cited therein for their true and complete contents.

89. Defendant denies the allegations contained in Paragraph 89.

90. Defendant denies the allegations contained in Paragraph 90.

91. Paragraph 91 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant refers to the statute cited for its true and complete language, and denies all allegations contrary thereto.

92. Paragraph 92 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant refers to the statutes cited for its true and complete language, and denies all allegations contrary thereto.

93. Defendant denies the allegations contained in Paragraph 93.

94. Defendant denies the allegations contained in Paragraph 94.

95. Defendant denies the allegations contained in Paragraph 95.

96. Defendant denies the allegations contained in Paragraph 96.

97. Paragraph 97 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 97.

98. Paragraph 98 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 98.

99. Paragraph 99 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 99.

100. Defendant refers to the materials cited in Paragraph 100 for their true and complete contents, and denies all allegations contrary thereto.

101. Defendant denies the allegations contained in Paragraph 101.

102. Defendant denies the allegations contained in Paragraph 102.

103. Defendant denies the allegations contained in Paragraph 103.

104. Defendant admits to sending a letter dated November 9, 2016 on behalf of the LSF9 Master Participation Trust, to which Plaintiff was a recipient. To the extent Paragraph 104 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and/or attached accurate and complete versions in exhibits to the Complaint. Defendant refers to the documents cited in Paragraph 104 for their true and complete contents, and denies all allegations contrary thereto. Defendant otherwise denies the allegations contained in Paragraph 104.

105. Defendant denies the allegations contained in Paragraph 105.

106. Defendant admits to sending a letter dated September 14, 2017 on behalf of the LSF9 Master Participation Trust, to which Plaintiff was a recipient. To the extent Paragraph 106 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and/or attached accurate and complete versions in exhibits to the Complaint. Defendant refers to the documents cited in Paragraph 106 for their true and complete contents, and denies all allegations contrary thereto. Defendant otherwise denies the allegations contained in Paragraph 106.

107. To the extent Paragraph 107 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them. Defendant refers to the materials cited in Paragraph 107 for their true and complete contents, and denies all allegations contrary thereto.

108. Defendant denies the allegations contained in Paragraph 108. Defendant refers to the materials cited in Paragraph 108 for their true and complete contents, and denies all allegations contrary thereto.

109. Defendant denies the allegations contained in Paragraph 109. To the extent Paragraph 109 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

110. Defendant lacks information or belief sufficient to form a belief as to the truth of the allegations in Paragraph 110, and therefore denies the allegations.

111. To the extent Paragraph 111 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them. Defendant refers to the materials cited in Paragraph 111 for their true and complete contents, and denies all allegations contrary thereto.

112. Defendant denies the allegations contained in Paragraph 112. To the extent Paragraph 112 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

113. Defendant denies the allegations contained in Paragraph 113. To the extent Paragraph 113 purports to characterize or quote the materials cited therein, Defendant denies that

the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

114. Paragraph 114 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies all allegations contained in Paragraph 114.

115. Paragraph 115 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 115.

116. Defendant denies the allegations contained in Paragraph 116. To the extent Paragraph 116 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

117. Paragraph 117 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 117.

118. Paragraph 118 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 118.

119. Paragraph 119 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 119.

120. Paragraph 120 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 120.

121. Paragraph 121 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 121.

122. Paragraph 122 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 122.

123. Defendant denies the allegations contained in Paragraph 123. To the extent Paragraph 123 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

124. Defendant denies the allegations contained in Paragraph 124.

125. Defendant denies the allegations contained in Paragraph 125. To the extent Paragraph 125 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

126. Paragraph 126 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 126. To the extent Paragraph 126 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

127. Defendant denies the allegations contained in Paragraph 127.

128. Paragraph 128 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 128. To the extent Paragraph 128 purports to characterize or quote the materials cited therein,

Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

129. Paragraph 129 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 129.

130. Paragraph 130 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 130.

131. Paragraph 131 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 131.

132. Paragraph 132 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 132.

133. Defendant denies the allegations contained in Paragraph 133. To the extent Paragraph 133 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

134. Defendant denies the allegations contained in Paragraph 134. To the extent Paragraph 134 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

135. Defendant denies the allegations contained in Paragraph 135. To the extent Paragraph 135 purports to characterize or quote the materials cited therein, Defendant denies that



the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

136. Defendant denies the allegations contained in Paragraph 136. To the extent Paragraph 136 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

137. Defendant denies the allegations contained in Paragraph 137. To the extent Paragraph 137 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

138. Defendant denies the allegations contained in Paragraph 138. To the extent Paragraph 138 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

139. Defendant denies the allegations contained in Paragraph 139. To the extent Paragraph 139 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

140. Defendant denies the allegations contained in Paragraph 140. To the extent Paragraph 140 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

141. Defendant denies the allegations contained in Paragraph 141. To the extent Paragraph 141 purports to characterize or quote the materials cited therein, Defendant denies that

the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

142. Defendant denies the allegations contained in Paragraph 142. To the extent Paragraph 142 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

143. Defendant denies the allegations contained in Paragraph 143. To the extent Paragraph 143 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

144. Defendant denies the allegations contained in Paragraph 144. To the extent Paragraph 144 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

145. Defendant denies the allegations contained in Paragraph 145. To the extent Paragraph 145 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

146. Defendant denies the allegations contained in Paragraph 146. To the extent Paragraph 146 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

147. Defendant denies the allegations contained in Paragraph 147. To the extent Paragraph 147 purports to characterize or quote the materials cited therein, Defendant denies that

the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

148. Defendant denies the allegations contained in Paragraph 148. To the extent Paragraph 148 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

149. Defendant denies the allegations contained in Paragraph 149.

150. Defendant denies the allegations contained in Paragraph 150.

151. Defendant denies the allegations contained in Paragraph 151.

152. Defendant denies the allegations contained in Paragraph 152.

153. Defendant denies the allegations contained in Paragraph 153.

154. Defendant denies the allegations contained in Paragraph 154.

155. Defendant denies the allegations contained in Paragraph 155.

156. Defendant denies the allegations contained in Paragraph 156.

157. Defendant denies the allegations contained in Paragraph 157.

158. Defendant denies the allegations contained in Paragraph 158.

159. To the extent Paragraph 159 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents. Defendant refers to the materials cited in Paragraph 159 for their true and complete contents, and denies all allegations contrary thereto.

160. Defendant denies the allegations contained in Paragraph 160.

161. To the extent Paragraph 161 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them.

Defendant refers to the materials cited in Paragraph 161 for their true and complete contents, and denies all allegations contrary thereto.

162. Defendant denies the allegations contained in Paragraph 162.

163. Defendant admits that Rosicki, Rosicki & Associates, P.C. represented plaintiff U.S. Bank, as Trustee for LSF9 Master Participation Trust in *U.S. Bank Trust, N.A., as Trustee for LSF9 Master Participation Trust v. Yehoshua Yusewitz, Mendel Reizes, et al.*, Index No. 523467/2017. Defendant denies the remaining allegations contained in Paragraph 163.

164. Paragraph 164 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 164.

165. Paragraph 165 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 165.

166. Defendant denies the allegations contained in Paragraph 166.

167. Defendant denies the allegations contained in Paragraph 167.

168. Defendant denies the allegations contained in Paragraph 168.

169. Defendant denies the allegations contained in Paragraph 169.

170. Defendant denies the allegations contained in Paragraph 170.

171. Defendant denies the allegations contained in Paragraph 171.

172. Defendant denies the allegations contained in Paragraph 172.

173. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 173 and therefore denies the allegations.

174. Defendant denies the allegations contained in Paragraph 174.

175. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 175 and refers to the docket of the action cited therein for a true and complete record of that action.

176. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the foreclosure at Index 13517/2010 contained in Paragraph 176 and refers to the docket of the action cited therein for a true and complete record of that action. Defendant denies the remaining allegations contained in Paragraph 176.

177. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations regarding the foreclosure at Index 13517/2010 contained in Paragraph 177 and refers to the docket of the action cited therein for a true and complete record of that action. Defendant denies the remaining allegations contained in Paragraph 177.

178. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 178, and therefore denies the allegations.

179. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 179, and therefore denies the allegations.

180. On information and belief, Defendant admits that Seterus Inc. was a previous servicer of Plaintiff's mortgage loan. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations in Paragraph 180.

181. Defendant denies the allegations contained in Paragraph 181.

182. Defendant denies the allegations contained in Paragraph 182.

183. Defendant denies the allegations contained in Paragraph 183.

184. Defendant denies the allegations contained in Paragraph 184. To the extent Paragraph 184 purports to characterize or quote the materials cited therein, Defendant denies that

the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

185. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 185, and therefore denies the allegations. To the extent Paragraph 185 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

186. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 186, and therefore denies the allegations. Defendant refers to the documents cited in Exhibit C for a true and complete record of their contents, and denies all allegations contrary thereto.

187. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 187. The second sentence of Paragraph 187 contains legal conclusions to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 187.

188. Defendant denies the allegations contained in Paragraph 188.

189. Paragraph 189 states conclusions of law to which no response is required. To the extent a response is required, Defendant denies the allegations contained in Paragraph 189.

190. Defendant denies the allegations contained in Paragraph 190.

191. Defendant refers to documents cited in Paragraph 191, and all documents in Exhibit E, for a true and complete record of their contents, and denies all allegations contrary thereto. Defendant otherwise denies the remaining allegations contained in Paragraph 191.

192. Defendant denies the allegations contained in Paragraph 192.

193. Defendant denies the allegations contained in Paragraph 193.

194. Defendant denies the allegations contained in Paragraph 194.

195. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 195, and therefore denies the allegations.

Defendant refers to the document cited Paragraph 195, and all documents in Exhibit F, for a true and complete record of their contents, and denies all allegations contrary thereto.

196. Defendant denies the allegations concerning agency contained in Paragraph 196. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 196, and therefore denies the allegations.

197. Defendant denies the allegations concerning agency contained in Paragraph 197. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 197, and therefore denies the allegations.

198. Defendant denies the allegations concerning agency contained in Paragraph 198. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 198, and therefore denies the allegations.

199. Defendant denies the allegations concerning agency contained in Paragraph 199. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 199, and therefore denies the allegations.

200. Defendant denies the allegations concerning agency contained in Paragraph 200. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 200, and therefore denies the allegations.

201. Defendant denies the allegations concerning agency contained in Paragraph 201. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 201, and therefore denies the allegations.

202. Defendant denies the allegations concerning agency contained in Paragraph 202. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 202, and therefore denies the allegations.

203. Defendant denies the allegations concerning agency contained in Paragraph 203. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 203, and therefore denies the allegations.

204. Defendant denies the allegations contained in Paragraph 204 that pertain to Defendant. Defendant lacks knowledge or information sufficient to form a belief as to the allegations in Paragraph 204 pertaining to parties other than Defendant, and therefore denies the allegations.

205. Defendant denies the allegations concerning agency contained in Paragraph 205. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 205, and therefore denies the allegations.

206. Defendant refers to the document cited in Paragraph 206, which speaks for itself, for its true and complete contents, and denies any allegations contrary thereto.

207. Defendant denies the allegations contained in Paragraph 207.

208. Defendant denies the allegations contained in Paragraph 208.

209. Defendant denies the allegations contained in Paragraph 209.

210. Defendant denies the allegations contained in Paragraph 210.

211. Defendant refers to the complaint cited in Paragraph 211, which speaks for itself, for its true and complete contents, and denies any allegations contrary thereto. Defendant denies the remaining allegations contained in Paragraph 211.

212. Defendant denies the allegations contained in Paragraph 212.



213. Defendant refers to the complaint cited in Paragraph 213, which speaks for itself, for its true and complete contents, and denies any allegations contrary thereto. Defendant denies the remaining allegations contained in Paragraph 213.

214. Paragraph 214 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 214.

215. Paragraph 215 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 215.

216. Paragraph 216 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 216.

217. Paragraph 217 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 217.

218. Defendant denies the allegations contained in Paragraph 218.

219. Defendant denies the allegations contained in Paragraph 219.

220. Defendant denies the allegations contained in Paragraph 220.

221. Defendant denies the allegations contained in Paragraph 221.

222. Defendant denies the allegations contained in Paragraph 222.

223. Defendant denies the allegations contained in Paragraph 223.

224. Defendant denies the allegations contained in Paragraph 224.

225. Defendant refers to the document cited in Paragraph 225, which speaks for itself, for its true and complete contents, and denies any allegations contrary thereto.

226. Defendant denies the allegations contained in Paragraph 226.

227. Defendant denies the allegations contained in Paragraph 227.

228. Defendant denies the allegations contained in Paragraph 228.

229. Defendant denies the allegations contained in Paragraph 229.

230. Defendant denies the allegations contained in Paragraph 230.

231. Defendant denies the allegations contained in Paragraph 231.

232. Defendant denies the allegations contained in Paragraph 232.

233. Defendant denies the allegations contained in Paragraph 233.

234. Defendant denies the allegations contained in Paragraph 234.

235. Defendant denies the allegations contained in Paragraph 235.

236. Defendant denies the allegations contained in Paragraph 236.

237. Paragraph 237 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 237.

238. Defendant denies the allegations contained in Paragraph 238.

239. Defendant denies the allegations contained in Paragraph 239.

240. Paragraph 240 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 240.

241. Paragraph 241 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 241.

242. Defendant denies the allegations contained in Paragraph 242.

243. Paragraph 243 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 243. To the extent Paragraph 243 purports to characterize or quote the materials cited therein, Defendant denies that the Plaintiff has accurately and completely summarized them and refers to the materials for their true and complete contents.

244. Paragraph 244 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 244.

245. Paragraph 245 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 245.

246. Defendant denies the allegations contained in Paragraph 246.

247. Defendant denies the allegations contained in Paragraph 247.

248. Defendant denies the allegations contained in Paragraph 248.

249. Defendant denies the allegations contained in Paragraph 249.

250. Defendant denies the allegations contained in Paragraph 250.

251. Defendant denies the allegations contained in Paragraph 251.

252. Defendant denies the allegations contained in Paragraph 252.

253. Defendant denies the allegations contained in Paragraph 253.

254. Defendant denies the allegations contained in Paragraph 254.

255. Defendant denies the allegations contained in Paragraph 255.

256. Defendant denies the allegations contained in Paragraph 256.

257. Defendant denies the allegations contained in Paragraph 257.

258. Defendant denies the allegations concerning agency contained in Paragraph 258. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 258, and therefore denies the allegations.

259. Paragraph 259 contains statutory text to which no response is required. Defendant refers to the statute cited in Paragraph 259 for its true and complete language, and denies all allegations contrary thereto.

260. Defendant denies the allegations contained in Paragraph 260.

261. Defendant denies the allegations contained in Paragraph 261.

262. Defendant denies the allegations concerning agency contained in Paragraph 262. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 262, and therefore denies the allegations.

263. Defendant denies the allegations contained in Paragraph 263.

264. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 264. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 264.

265. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 265, and therefore denies the allegations.

266. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 266, and therefore denies the allegations.

267. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 267, and therefore denies the allegations.

268. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 268, and therefore denies the allegations.

269. Defendant denies the allegations concerning agency contained in Paragraph 269. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 269, and therefore denies the allegations.

270. Defendant denies the allegations concerning agency contained in Paragraph 270. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 270, and therefore denies the allegations.

271. Paragraph 271 contains statutory text to which no response is required. Defendant refers to the statute cited in Paragraph 271 for its true and complete language, and denies all allegations contrary thereto.

272. Defendant denies the allegations concerning agency contained in Paragraph 272. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 272, and therefore denies the allegations.

273. Defendant denies the allegations contained in Paragraph 273.

274. Defendant denies the allegations contained in Paragraph 274.

275. Defendant denies the allegations contained in Paragraph 275.

276. Defendant denies the allegations concerning agency contained in Paragraph 276. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 276, and therefore denies the allegations.

277. Defendant denies the allegations contained in Paragraph 277.

278. Defendant refers to the document described in Paragraph 278, which speaks for itself, for a true and accurate record of its contents, and denies all allegations contrary thereto. Defendant otherwise lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 278.

279. Defendant denies the allegations concerning agency contained in Paragraph 279. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 279, and therefore denies the allegations.

280. Defendant lacks knowledge or information sufficient to form a belief as to the truth of allegations concerning Rosicki's knowledge contained in Paragraph 280. Defendant denies the remaining allegations contained in Paragraph 280.

281. Defendant denies the allegations concerning agency contained in Paragraph 281. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 281, and therefore denies the allegations.

282. Defendant denies the allegations concerning agency contained in Paragraph 282. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 282, and therefore denies the allegations.

283. Defendant denies the allegations concerning agency contained in Paragraph 283. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 283, and therefore denies the allegations. Defendant denies the remaining allegations contained in Paragraph 283.

284. Defendant lacks knowledge or information sufficient to form a belief as to the truth of allegations concerning Rosicki's knowledge contained in Paragraph 284. Defendant denies the remaining allegations contained in Paragraph 284.

285. Defendant lacks knowledge or information sufficient to form a belief as to the truth of allegations concerning Rosicki's knowledge contained in Paragraph 285. Defendant denies the remaining allegations contained in Paragraph 285.

286. Defendant denies the allegations concerning agency contained in Paragraph 286. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 286, and therefore denies the allegations.

287. Defendant denies the allegations contained in Paragraph 287.

288. Defendant denies the allegations concerning agency contained in Paragraph 288. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 288, and therefore denies the allegations.

289. Defendant denies the allegations concerning agency contained in Paragraph 289. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first sentence of Paragraph 289, and therefore denies the allegations.

290. Defendant denies the allegations contained in Paragraph 290.

291. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 291. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 291.

292. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 292. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 292.

293. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 293. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 293.

294. Defendant denies the allegations contained in Paragraph 294.

295. Paragraph 295 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 295.

296. Paragraph 296 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 296.

297. Defendant denies the allegations contained in Paragraph 297.

298. Defendant denies the allegations contained in Paragraph 298.

299. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 299. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 299.

300. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 300. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 300.

301. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 301. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 301.

302. Paragraph 302 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 302.

303. Defendant denies the allegations contained in Paragraph 303.

304. Defendant denies the allegations contained in Paragraph 304.

305. Paragraph 305 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 305.

306. Defendant denies the allegations contained in Paragraph 306.

307. Defendant denies the allegations contained in Paragraph 307.



308. Defendant denies the allegations contained in Paragraph 308.

309. Defendant denies the allegations contained in Paragraph 309.

310. Paragraph 310 states conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in Paragraph 310.

311. Defendant denies the allegations contained in Paragraph 311.

312. Defendant denies the allegations contained in Paragraph 312.

313. Defendant denies the allegations contained in Paragraph 313.

314. Defendant denies the allegations contained in Paragraph 314.

315. Defendant denies the allegations contained in Paragraph 315.

316. Defendant denies the allegations contained in Paragraph 316.

317. The first two sentences of Paragraph 317 state conclusions of law as to which no response is required. To the extent that a response is required, Defendant denies the allegations contained in the first two sentences of Paragraph 317. Defendant denies the remaining allegations contained in Paragraph 317.

318. Defendant denies the allegations contained in Paragraph 318.

319. Defendant denies the allegations contained in Paragraph 319.

**RESPONSE TO PLAINTIFF'S ALLEGED CAUSE OF ACTION**

320. Defendant incorporates by reference Paragraphs 1-319 as if fully set herein.

321. Defendant denies the allegations contained in Paragraph 321. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

322. Defendant denies the allegations contained in Paragraph 322. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

323. Defendant denies the allegations contained in Paragraph 323. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

324. Defendant denies the allegations contained in Paragraph 324. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

325. Defendant denies the allegations contained in Paragraph 325. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

326. Defendant denies the allegations contained in Paragraph 326. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

- A. Defendant denies the allegations contained in Paragraph 326(A). Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.
- B. Defendant denies the allegations contained in Paragraph 326(B). Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.
- C. Defendant denies the allegations contained in Paragraph 326(C). Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.
- D. Defendant denies the allegations contained in Paragraph 326(D). Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.
- E. Defendant denies the allegations contained in Paragraph 326(E). Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

327. Defendant denies the allegations contained in Paragraph 327. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

328. Paragraph 328 of the Complaint does not contain any affirmative allegations against Defendant. Therefore, Defendant is not required to respond to this paragraph. To the extent a response is required, Defendant denies the allegations contained in Paragraph 328. Additionally, Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative.

329. Paragraph 329 of the Complaint does not contain any affirmative allegations against Defendant. Therefore, Defendant is not required to respond to this paragraph. To the extent a response is required, Defendant denies the allegations contained in Paragraph 329.

330. Defendant denies the allegations contained in Paragraph 330 of the Complaint.

331. Defendant denies the allegations contained in Paragraph 331 of the Complaint. Defendant denies that this is a viable class action and denies that Plaintiff is a suitable class representative. Defendant further denies the relief requested in “WHEREFORE” clause following Paragraph 331, including all allegations in the unnumbered subparagraphs (A-C) following Paragraph 331 of the Complaint, and refers all questions of law to the Court.

### **AFFIRMATIVE AND OTHER DEFENSES**

#### **FIRST AFFIRMATIVE DEFENSE**

(Failure to State Cause of Action)

1. Plaintiff’s Complaint, and each cause of action contained therein, fails to state facts sufficient to constitute a valid cause of action against Defendant.

#### **SECOND AFFIRMATIVE DEFENSE**

(Statute of Limitations)

2. Plaintiff’s Complaint, and each cause of action contained therein, or portions thereof, is barred by the applicable statutes of limitations and/or repose.

**THIRD AFFIRMATIVE DEFENSE**

(Mitigation of Damages)

3. Plaintiff is not entitled to recover any damages, or any recovery awarded should be reduced by the amount of damages which reasonable could have been avoided, because Plaintiff failed to take reasonable steps to mitigate his damages with respect to matters alleged in the Complaint.

**FOURTH AFFIRMATIVE DEFENSE**

(Estoppel)

4. As a separate, affirmative defense, the Complaint, and each cause of action alleged therein against Defendant, is barred by the conduct, actions, and inactions of Plaintiff, which amount to and constitute estoppel or wavier of the claims and any relief sought by the Complaint.

**FIFTH AFFIRMATIVE DEFENSE**

(Unclean Hands)

5. Plaintiff is barred from maintaining the Complaint and each purported cause of action alleged therein against Defendant as a result of unclean hands with respect to the events upon which the Complaint and purported causes of action allegedly are based.

**SIXTH AFFIRMATIVE DEFENSE**

(Compliance with Statute)

6. The conduct of Defendant at all times complied with all applicable statutes, regulations, and laws; accordingly, the Complaint and each purported cause of action alleged therein against Defendant is barred.

**SEVENTH AFFIRMATIVE DEFENSE**

(Actions Were Proper)

7. As a separate, affirmative defense, Defendant alleges that the alleged actions of Defendant were proper and did not violate any provisions of 15 U.S.C. § 1692, *et seq.*

**EIGHTH AFFIRMATIVE DEFENSE**

(No Intentional or Reckless Conduct)

8. A separate, affirmative defense, Defendant contents that it did not engage in any conduct that was outrageous, intentional and malicious, or done with reckless disregard with respect to Plaintiff. Defendant also alleges that it never engaged in any knowing, willful, or fraudulent conduct with respect to Plaintiff.

**NINTH AFFIRMATIVE DEFENSE**

(Bona Fide Error)

9. As a separate, affirmative defense, assuming *arguendo* that Defendant violated a statute alleged in the Complaint, which presupposition Defendant denies, such violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

**TENTH AFFIRMATIVE DEFENSE**

(Laches)

10. Plaintiff is barred by the doctrine of laches from pursuing his Complaint and each purported cause of action alleged therein against Defendant by reason of his inexcusable and unreasonable delay in filing his Complaint.

**ELEVENTH AFFIRMATIVE DEFENSE**

(Maintained Reasonable FDCPA Procedures)

11. As a separate, affirmative defense, Defendant alleges that at all times alleged in the Complaint, Defendant maintained reasonable procedures created to prevent any type of intentional or negligence violations of the FDCPA.

**TWELFTH AFFIRMATIVE DEFENSE**  
(FDCPA Damages Are Limited)

12. As a separate, affirmative defense, Defendant alleges that if Plaintiff was damaged in any sum or sums alleged, which Defendant denies, the Plaintiff's damages are limited by 15 U.S. C. §§ 1692k(a)(1), 1692k(a)(3), and 1692k(b)(1).

**THIRTEENTH AFFIRMATIVE DEFENSE**  
(Not a Proper Class Representative)

13. As a separate, affirmative defense to the Complaint, Defendant alleges that Plaintiff is atypical and inadequate as a class representative.

**FOURTEENTH AFFIRMATIVE DEFENSE**  
(No Proximate Cause)

14. As a separate, affirmative defense, Defendant alleges that Plaintiff's claims are, or may be, barred because the claimed injuries and damages were not proximately caused by any acts or omissions of Defendant.

**FIFTEENTH AFFIRMATIVE DEFENSE**  
(Conduct of Third Parties)

15. As a separate, affirmative defense, Defendant alleges that Plaintiff's claims are, or may be, barred because the claimed injuries and damages, if any, were or may have been caused by the conduct of third parties, including, but not limited to, the prior, intervening, or superseding conduct of third parties.

**SIXTEENTH AFFIRMATIVE DEFENSE**

(Not a Proper Class Action)

16. As a separate, affirmative defense to the Complaint, Defendant alleges that this action is not appropriately brought or maintained as a class action.

**SEVENTEENTH AFFIRMATIVE DEFENSE**

(Class Action Improper – Lack of Typicality)

17. Plaintiff's action is not proper for class certification pursuant to Federal Rule of Civil Procedure 23 as Plaintiff's claim is not typical of the claim of the purported class members.

**EIGHTEENTH AFFIRMATIVE DEFENSE**

(Class Action Improper – Lack of Commonality)

18. Plaintiff's action is not proper for class action certification pursuant to Federal Rule of Civil Procedure 23 as Plaintiff's claims lack commonality of the purported class members.

**NINETEENTH AFFIRMATIVE DEFENSE**

(Class Action Improper – Lack of Numerosity)

19. Plaintiff's action is not proper for class action certification pursuant to Federal Rule of Civil Procedure 23 as Plaintiff's claims lack numerosity for purported class or other members.

**TWENTIETH AFFIRMATIVE DEFENSE**

(Class Action Improper – Lack of Adequacy)

20. Plaintiff's action is not proper for class certification pursuant to Federal Rule of Civil Procedure 23 as Plaintiff's claims lack adequacy of the purported class members.

**TWENTY-FIRST AFFIRMATIVE DEFENSE**  
(Insufficient Class Action Allegations)

21. As a separate, affirmative defense, Defendant asserts that Plaintiff has not and cannot establish that this action should be certified as a class action, as Plaintiff cannot establish numerosity of Plaintiff, common questions of law or fact, and typicality of claims, or other requirements for designating this action a “Class Action.”

**TWENTY-SECOND AFFIRMATIVE DEFENSE**  
(Offset)

22. Defendant contends that any recovery by Plaintiff be offset by any amount owed to Defendant.

**TWENTY-THIRD AFFIRMATIVE DEFENSE**  
(No Predominance)

23. As a separate, affirmative defense to the Complaint, and each purported claim for relief therein, Defendant alleges that the question of law or fact, as a class, are not substantially similar and do not predominate over questions affecting the individual members.

**TWENTY-FOURTH AFFIRMATIVE DEFENSE**  
(Lack of Standing)

24. Plaintiff’s claims are barred, in whole or in part, because Plaintiff lacks standing to assert its claims, and/or to the extent that any other person other than Plaintiff suffered the alleged harm.

**TWENTY-FIFTH AFFIRMATIVE DEFENSE**  
(Class Action Inferior)

25. Plaintiff’s action is not proper for class action certification pursuant to Federal Rule of Civil Procedure 23 due to lack of predominance and superiority, and because class action treatment is inferior to individual resolution of claims.



**TWENTY-SIXTH AFFIRMATIVE DEFENSE**  
(Legitimate Business Purpose)

26. As a separate, affirmative defense, Defendant alleges that at all times mentioned in the Complaint, Defendant acted lawfully and within its legal rights, with a good faith relief in the exercise of that right, and in furtherance of a legitimate business purpose. Further, Defendant acted in good faith in the honest belief that the acts, conduct, and communications, if any, of Defendant were justified under the circumstances based on information readily available.

**RESERVATION OF RIGHTS**

Defendant reserves the right to amend its answer and claims herein by adding additional parties, affirmative defenses, counterclaims, cross-claims, and/or third party claims, as additional investigation, discovery, or circumstances warrant.

**DEFENDANT'S PRAYER FOR RELIEF**

WHEREFORE, Defendant prays that the Complaint be dismissed with prejudice, for its attorneys' fees and costs incurred herein, and for such further relief as the Court deems just and equitable.

Dated: New York, New York  
June 28, 2018

**MAYER BROWN LLP**

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